

# Exhibit 3

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**Subject:** RE: LUPE v. Abbott, 5:21-cv-844 (W.D. Tex.) - Private Plaintiff Disclosures  
**Date:** Monday, May 2, 2022 2:34:00 PM  
**Attachments:** [2022.04.08 HAUL Plaintiffs' Production Letter - Vol. 05.pdf](#)

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Kathleen,

As a follow-up, I wanted to let you know that Wendy Salome is available for deposition in Austin on Monday, May 9. Documents relevant to her testimony can be found at TRAVISCTYPRR\_0001353-1360. HAUL plaintiffs produced these documents to you on April 8.

Thank you,  
Georgina

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**Subject:** RE: LUPE v. Abbott, 5:21-cv-844 (W.D. Tex.) - Private Plaintiff Disclosures

Hi Kathleen,

Thank you for your email. I offer a few points of clarification to start. First, two of the witnesses included in your list of 20 (Jennifer Martinez and Ashley Ford) were disclosed on December 2, as part of our initial disclosures. The state defendants have therefore had 5 months to notice their depositions and have elected not to do so. Second, Rogene Gee Calvert was first disclosed on March 28, during the State's deposition of OCA-Greater Houston's corporate representative. Third, another four of the witnesses (Pamela Gaskin, Amatullah Contractor, Hyunja Norman, Toby Cole) were first disclosed by the DOJ on April 1, meaning there was time to update written discovery requests, had the state wished to do so, and there were six weeks to take their deposition within the discovery schedule.

6 witnesses were disclosed for the first time on April 18 (Yi Lu Zhao, Ming Fei Zhao, Chanda Parbhoo, Riazuddin Ahmed, Julie Espinoza, Wendy Salome) and 7 witnesses were disclosed for the first time on April 26 (Madeleine Appel, Janet Eickmeyer, Jeannie Lewis, Marian Alexander, Judy Alter, Joe Potts, Teri Saltzman). Those disclosures were well within the discovery period.

The nature of the discovery schedule in this case takes into account the March 2022 primary election, and the need for the parties to continue their factual investigations to discover relevant evidence arising from that primary. The plaintiffs have worked diligently to investigate and identify additional witnesses, and have updated the disclosures as soon as we were prepared to do so. Given that discovery is not yet closed and our investigations continue, we reserve the right to further update through the close of discovery.

Given the volume of this case, the consolidation of the plaintiffs, and the nature of the discovery schedule discussed above, we believe that the disclosure of 6 witnesses with almost a month left in discovery, and the disclosure of 7 more witnesses 8 days later, in a case comprising six consolidated cases, should not merit taking depositions out of time. To the extent we disclose further witnesses, we are willing to make them available for deposition after the discovery cut off, provided that you do not use the out of time depositions as a basis to request extending other deadlines in the scheduling order.

Finally, it is worth acknowledging that the state defendants thus far have not noticed the deposition of a single non-plaintiff fact witness disclosed on December 2, including members of the plaintiffs' organizations, despite the plaintiffs disclosing 62 plaintiff-side witnesses at that time. Nor has the state conducted depositions of all named plaintiffs. We do not dispute that it is your right to decline to depose witnesses and plaintiffs, and to notice the volume of depositions allowed by the court within the time period for discovery, but simply note that dozens of witnesses have been known to the state defendants for months, including two that you now say you wish to depose out of time. Moreover, to the extent we do identify additional witnesses in the future, we will oppose any attempt by you to take more than 50 depositions. The Court set that limitation with full awareness of the

timeline and magnitude of this consolidated litigation.

Given that we do not have agreement on this matter, we propose the following times to confer: (All times in Central) Today (5/2) 12-4; Tuesday (5/3) 9-11; Wednesday (5/4) 11-1

Thank you,

**Georgina Yeomans (she/her)**

**Assistant Counsel**

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**Subject:** LUPE v. Abbott, 5:21-cv-844 (W.D. Tex.) - Private Plaintiff Disclosures

[Caution: EXTERNAL EMAIL]

Counsel,

On April 18, and again on April 26, the private plaintiffs amended their initial disclosures to identify twenty previously undisclosed individuals who “are likely to have discoverable information that Plaintiffs may use to support their claims and/or defenses”:

1. Pamela Gaskin
2. Amatullah Contractor
3. Hyunja Norman
4. Rogene Gee Calvert

5. Yi Lu Zhao
6. Ming Fei Zhao
7. Chanda Parbhoo
8. Riazuddin Ahmed
9. Jule Espinoza
10. Wendy Salome
11. Jennifer Martinez
12. Ashley Ford
13. Madeleine Appel
14. Janet Eickmeyer
15. Jeannie Lewis
16. Marian Alexander
17. Judy Alter
18. Toby Cole
19. Joe Potts
20. Teri Saltzman

The deadline for the completion of discovery is May 13, 2022. (ECF 368 at 2). By the time you served your supplemental disclosures, the deadline for the State Defendants to pursue written discovery pertaining to these individuals had passed. In addition, the State Defendants have the right to depose potential witnesses, but your disclosure so close to the end of the fact-discovery period makes it impossible for the State Defendants to do so because the calendar between now and May 13 is fully booked with previously scheduled depositions.

In order to conduct the depositions of these individuals, the State Defendants will need to take their depositions after May 13. Please provide the availability of these individuals for deposition after May 13. We should be able to complete these depositions before June 3. If plaintiffs will not agree to permit the out-of-time deposition of these individuals, another option is for you to pull them from your lists of potential witnesses. If these individuals are listed as trial witness without affording the State Defendants the opportunity to depose them in order to develop their claims and defenses, we will object to them being listed and move to have them excluded from participation in the trial.

We think that we can work out arrangements that will work for all sides, but this will require some adjustment to the calendar. Please let me know by Monday, May 2, 2022, if you will agree to permit these out-of-time depositions. So that we can schedule them, please provide dates on which these individuals are available, as well as where they will be made available, as soon as you can. We are available to meet and confer about this issue if you would like to discuss this request further.

## **Kathleen Hunker**

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